

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

CAO GROUP, INC.,

Plaintiff,

v.

THE INDIVIDUALS, CORPORATIONS,
LIMITED LIABILITY COMPANIES,
PARTNERSHIPS, and
UNINCORPORATED ASSOCIATES
IDENTIFIED ON SCHEDULE "A,"

Defendants.

Case No.: 1:24-cv-01211

1:24-cv-05129

Judge Thomas M. Durkin

**Magistrate Judge Jeannice W.
Appenteng**

JURY TRIAL DEMAND

JOINT CASE STATUS REPORT

1) The Nature of the Case

- a. Identify the attorneys of record for each party, including the lead trial attorneys.

PLAINTIFF:

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Sameeul Haque, (847) 466-2532, shaque@bdl-iplaw.com,
Bishop Diehl & Lee, Ltd.,
1475 E. Woodfield Rd, Suite 800,
Schaumburg, IL 60173

DEFENDANTS:¹

David R. Bennett, (312) 291-1667, dbennett@directionip.com
Steven G. Kalberg, (847) 508-1294, skalberg@directionip.com
Direction IP Law
P.O. Box 14184
Chicago, Illinois 60614

¹ Defendants represented by Attorneys Adam Urbanczyk, Chris Keleher, and Daniel Yao (GD-Whitening in the Case No. 24-cv-05129) have represented to Plaintiff's counsel that their respective clients do not intend to further participate in litigation and, thus, did not participate in the 26(f) Conference.

AND

Robin Cheng, (917) 525-1495, rcheng@palmerlawgroup.com
Palmer Law Group, P.A.
5353 N. Federal Highway, Suite 402
Fort Lauderdale, FL 33308

- b. State the basis for federal jurisdiction.

RESPONSE: This Court has original subject matter jurisdiction over Plaintiff's claims pursuant to the provisions of the Patent Act, 35 U.S.C. § 1 et seq., 28 U.S.C. § 1338(a)-(b) (exclusive patent claim jurisdiction), and 28 U.S.C. § 1331 (original federal question jurisdiction).

- c. Describe the nature of the claims asserted in the complaint and any counterclaims, including relief sought.

RESPONSE: Plaintiff has asserted three claims of patent infringement against Defendants in relation to teeth whitening strips. Plaintiff seeks injunctive and monetary relief, including trebled damages for willful infringement and injunction on any future sales of accused products. Defendants represented by Attorney Cheng ("Cheng Defendants") have not asserted any counterclaims against Plaintiff. Defendants represented by Attorney Kalberg ("Kalberg Defendants") assert three counterclaims for declaratory judgment of non-infringement as to the three patents asserted by Plaintiffs and a fourth counterclaim for tortious interference with prospective economic advantage. These defendants seek both injunctive and monetary relief.

2) Pending Motions and Case Plan

- a. Identify any pending motions.

RESPONSE: Cheng Defendants filed a Motion to Vacate Preliminary Injunction [74].

Plaintiff has filed its Response [96]. Cheng Defendants have until August 1, 2024 to file a reply brief.

- b. Submit a proposal for a discovery plan, including the following information:

- i. The general type of discovery needed;
- ii. A date to issue written discovery;
- iii. If there will be expert discovery **relevant to dispositive liability motions**, an expert discovery completion date, including dates for the delivery of expert reports;
- iv. A liability discovery completion date;
- v. A deadline to amend pleadings;
- vi. Scheduling of expert discovery relevant to damages should be deferred until it becomes necessary for a hearing or trial. The parties may suggest that expert discovery relevant to damages be scheduled sooner if they believe it is necessary. Generally, the time and expense of expert damage discovery should not be taken until any dispositive motions have been decided, or the parties agree that no such motions will be filed.
- vii. A deadline for filing summary judgment motions should not be included. The Court will set that deadline in consultation with the parties after the close of discovery.
- viii. The Court generally approves parties' jointly proposed discovery plans, because the Court trusts that the parties will devise a schedule that both moves the case forward in an efficient manner and takes into account the parties' and counsel's other obligations. Since the Court will be generous in this regard, the Court will be reluctant to grant any extensions of this schedule.

EVENT SCHEDULED	GOVERNING LOCAL PATENT RULE	DEADLINE
Answer or Other Response To Complaint	N/A	July 12, 2024
Opening of Fact Discovery	N/A	July 15, 2024
Initial Disclosures of Both Parties	14 days (2 weeks) after Answer or other responsive pleading. (LPR 2.1)	July 26, 2024
Initial Infringement Contentions	14 days (2 weeks) after Initial Disclosures. (LPR 2.2)	August 2, 2024
Initial Non-Infringement, Unenforceability, and Invalidity Contentions	14 days (2 weeks) after Initial Infringement Contentions. (LPR 2.3)	August 16, 2024

EVENT SCHEDULED	GOVERNING LOCAL PATENT RULE	DEADLINE
Initial Response to Invalidity Contentions	14 days (2 weeks) after Initial Non-Infringement and Invalidity Contentions. (LPR 2.5)	August 30, 2024
Final Infringement, Unenforceability, and Invalidity Contentions	21 weeks after Initial Infringement Contentions. (LPR 3.1)	December 27, 2024
Final Non-Infringement, Enforceability, and Validity Contentions	28 days (4 weeks) after service of Final Infringement Contentions. (LPR 3.2)	January 24, 2025
Exchange of Claim Terms Needing Construction	14 days (2 weeks) after Final Validity Contentions. (LPR 4.1)	February 7, 2025
Close of Fact Discovery – Part 1	28 days after the date for exchange of claim terms and phrases under LPR 4.1. (LPR 1.3)	March 7, 2025
Opening Claim Construction Brief (by alleged infringer) and Joint Appendix	35 days (5 weeks) after exchange of claim terms. (LPR 4.2(a))	March 14, 2025
Responsive Claim Construction Brief (by party asserting infringement)	28 days (4 weeks) after Opening Claim Construction Brief. (LPR 4.2(c))	April 11, 2025
Reply Claim Construction Brief	14 days (2 weeks) after Responsive Claim Construction Brief. (LPR 4.2(d))	April 25, 2025
Joint Claim Construction Chart	7 days (1 week) after Reply Claim Construction Brief. (LPR 4.2(f))	May 2, 2025
Claim Construction Hearing	To be determined by the Court (within 28 days of filing of reply claim construction brief). (LPR 4.3)	Subject to the Court's availability (on or before May 23, 2025)
Claim Construction Ruling (fact discovery may resume)	To be determined by the Court.	Subject to the Court's availability
Discovery Opens Regarding Opinions of Counsel	35 days (5 weeks) before final close of fact discovery. (LPR 3.6)	35 days (5 weeks) before final close of fact discovery
Close of Fact Discovery – Part 2	42 days (6 weeks) after Claim Const. Ruling.	42 days (6 weeks) after Claim Const. Ruling

EVENT SCHEDULED	GOVERNING LOCAL PATENT RULE	DEADLINE
Expert Witness Reports of Parties with Burden of Proof	21 days (3 weeks) after claim construction ruling or close of discovery. (LPR 5.1(b))	21 days (3 weeks) after claim construction ruling or close of discovery.
Rebuttal Expert Witness Reports	35 days (5 weeks) after initial expert witness reports. (LPR 5.1(c))	35 days (5 weeks) after initial expert witness reports
Completion of Expert Witness Depositions	35 days (5 weeks) after rebuttal expert witness reports. (LPR 5.2)	35 days (5 weeks) after rebuttal expert witness reports

c. E-Discovery

- i. Indicate whether discovery will encompass electronically stored information, and the parties' plan to ensure that such discovery proceeds appropriately; and
- ii. Indicate whether the parties anticipate any electronic discovery disputes.

RESPONSE: The parties have discussed e-discovery and, at this time, do not foresee any issues pertaining to electronic discovery requests and responses, including any production requiring e-discovery.

- d. Indicate whether a jury trial is requested and the probable length of trial

RESPONSE: A jury trial is requested and the probable length of trial would be 5 days.

3) Consent to Proceed Before a Magistrate Judge

- a. Indicate whether the parties consent unanimously to proceed before a Magistrate Judge for all matters in the case, including dispositive motions and trial.

RESPONSE: The parties do not unanimously consent to proceed before a Magistrate Judge at this time.

4) Status of Settlement Discussions

- a. Indicate whether any settlement discussions have occurred, and if so, the status of those discussion. Unless it is impossible due to the uncertainty of damages, plaintiffs should have made a demand by the first status conference.
- b. Whether the parties request a settlement conference before the Magistrate Judge assigned to the case.

RESPONSE: The Parties have had settlement discussions and believe that a settlement conference before the Magistrate Judge is appropriate. The Parties request a referral by the Court to have a settlement conference before the Magistrate Judge. However, the Parties agree that the case should proceed with normal discovery and motion practice and should not be stayed for settlement discussions.

Dated: July 16, 2024

Respectfully submitted,

/s/ Sameeul Haque

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Counsel for Plaintiff, CAO Group, Inc.

(Reviewed and Approved by Counsel for Defendants Prior to Submission)